

REMARKS

Responsive to the lack of unity determination imposed in the outstanding Official Action, applicants hereby provisionally elect Group I, claims 1 and 3-5, with traverse. In addition, applicants provisionally elect SEQ ID NO: 10.

Withdrawal of the lack of unity determination in the above-identified application is respectfully requested. The grounds for traverse are that the same claims that are pending in the present national stage application were subject to examination during the international phase of the PCT application. The international Examiner found no lack of unity, applying the same legal standard to the identical facts.

Indeed, the Official Action does not explain why, applying the identical legal standard to the identical claims, the opposite result is now being reached in the present U.S. national phase application relative to the international application.

The Official Action does not comply with the requirements of PCT Rules 13.1 and 13.2, in seeking to justify the lack of unity determination. Specifically, the definition of "special technical feature" in PCT Rule 13.2 is art-based. While the Official Action cites to several publications in support of the lack of unity determination, applicants note that all these publications have been published after the priority date of the

current application. A translation of Italian Application No. MI99 A 000396 is attached herewith for the Examiner's convenience.

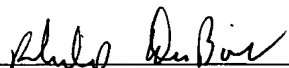
Thus, a proper lack of unity determination would require citation of a reference showing the "special technical feature". With no such citation having been made, a lack of unity determination is improper as a matter of law.

Thus, in view of the above, applicants believe that the lack of unity determination is improper and must be withdrawn. It is believed that applicants are entitled to an action on the merits of all the claims in their full scope. Such action is accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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PD/mjr
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APPENDIX:

The Appendix includes the following item(s):

- Translation of Italian Application No. MI99 A 000396,
filed on February 26, 1999.